

87-1820, ①

Supreme Court, U.S.

FILED

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No. _____

JOSEPH H. ...

CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OF AMERICA

October Term, 1987

NEIL C. HYSLEP and ANN A. HYSLEP,
Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE ELEVENTH CIRCUIT COURT OF APPEALS
FOR THE UNITED STATES OF AMERICA

Petitioners:

Neil C. Hyslep & Ann A. Hyslep
Fourth Judicial Dist. of Fla.
14907 N. Main Street
Jacksonville, Florida, U.S.A.
(904) 757-7613



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TO THE ELEVENTH CIRCUIT COURT OF APPEALS
FOR THE UNITED STATES OF AMERICA

QUESTIONS PRESENTED

1. Collusion or Alternately, lack of
jurisdiction of the Eleventh Circuit Court
of Appeals.

2. Constructive Fraud: Direct
taxation of source without apportionment or
Alternately, indirect, without uniformity.

Petitioners:
Neil C. Hyslep & Ann A. Hyslep
Fourth Judicial District of Fla.
14907 N. Main Street
Jacksonville, Florida, U.S.A.



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COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CLAIM TO FILE

1. Under Rule 9, Par. 3 of this Court, the Petitioners claim their right to file.

2. This claim is made under protest, because supreme Court Rule 9, Par. 3, contradicts Articles Amendments I and IX in the Constitution for the United States, and places unnecessary and unwarranted obstacles in the path of the natural Citizen seeking redress from an agency allegedly sponsored by the government, namely, the Internal Revenue Service, (I.R.S.).



3. As stated in Article III, Secs. 1 and 2: "The judicial Powers . . . shall be vested in one supreme Court . . . extend to all Cases, in [common] Law and Equity . . ." and in Article VI, Par. 3: ". . . [s]hall be bound by Oath or Affirmation to support this Constitution;. . ."

4. The Petitioners are and were denied their vested right to redress pursuant to the first Article in Amendment to the Constitution for the United States in that the Eleventh Circuit Court is not a Constitutional court impowered to hear redress as per Article I in Amendment to the Constitution for the United States. These findings, are dated October 27, 1987, and December 29, 1987. (See Appendix 1, 2 and 3.)

5. The determination of the Eleventh Circuit Court of Appeals contridicts the Constitution, the supreme Court, and the decision of another Federal Court of Appeals.

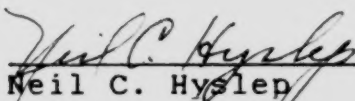


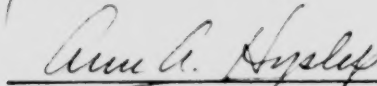
6. The Respondent, by way of its delegate, the I.R.S., is attempting to directly tax a source, without apportionment, in violation of the supreme law of our land at Article I, Sec. 2, par. 3, "[d]irect Taxes shall be apportioned. . . ."

7. Alternately, the Respondent, by way of its delegate, the I.R.S., is attempting to impose an excise tax pursuant to the Sixteenth Amendment on a non-Federal Citizen through the Internal Revenue Code of 1954. The Tax Court determinations are Exhibit B.

8. Ann A. Hyslep is identified as an Petitioner in this suit only because of her status as wife and dependant of Petitioner Neil C. Hyslep.

Petitioners:


Neil C. Hyslep


Ann A. Hyslep



CLAIM FOR REDRESS OF GRIEVANCES

1. Included as APENDIX 1 - 3 is a copy of Per curiam; the "disposition of a case by court not accompanied by a written opinion," dated October 27, 1987, and a copy of denial for a rehearing dated December 29, 1987.

JURISDICTION

2. Jurisdiction is invoked under, and as required by, Article III, Secs. 1 and 2: "The judicial Power of the United States, shall be vested in one supreme Court," "The judicial Power shall extend to all Cases,"

CITATIONS

3. This claim for redress has been initiated in consequence of violations perpetrated by the Respondent, his delegates and his champions, upon the vested RIGHTS of the Petitioner, said RIGHTS being antecedent



to the Constitution of the United States and by the restrictions placed in the Bill of Rights on government and, thus, all subsequent statutes created by the Legislative Branch.

4. Therefore, this claim for redress has been initiated pursuant to: (a) The Constitution of the United States, (b) The Bill of Rights, Articles I through X, and (c) the Rules of the supreme Court of the United States of America, Part I and II - Judicial Jurisdiction.



CLAIMS

FIRST CLAIM: COLLUSION

5. The knowing perpetuation of constructive fraud by Judges Hill, Vance, and Clark, of the Eleventh Circuit Court of Appeals, in their rubber stamping of an Article I, Sec. 8, Cl. 17 administrative tax tribunal's hypothesis, and said tax tribunal's patronage of the attempted encroachment by the Respondent's delegates (I.R.S.) over a member of the sovereign body as affirmed by the preamble to the Constitution for the United States of America and decided by this Court in DRED SCOTT v. SANFORD, 60 US 393, 19 Howard (1836-37).

6. This collusion is in violation of the mandates of Article VI, Cls. 2 and 3, of our Constitution, when imposed upon a non-Federal Citizen, i.e.,

"This Constitution . . . shall be the supreme Law . . . and judicial Officers . . . shall be bound by Oath or Affirmation, to support this Constitution;"
and



Article I, Sec. 2, Cl. 3; ". . . direct Taxes shall be apportioned . . ."

and

Article I, Sec. 8, Cl. 1; ". . . all Excises shall be uniform . . ." and Article I, Sec. 9, Cl. 4; "No Capitation, . . . Tax shall be laid . . ."

and

"The Citizens of each State shall be entitled to all . . . Immunities of Citizens in the several States." Article IV, Sec. 2, Cl. 1.

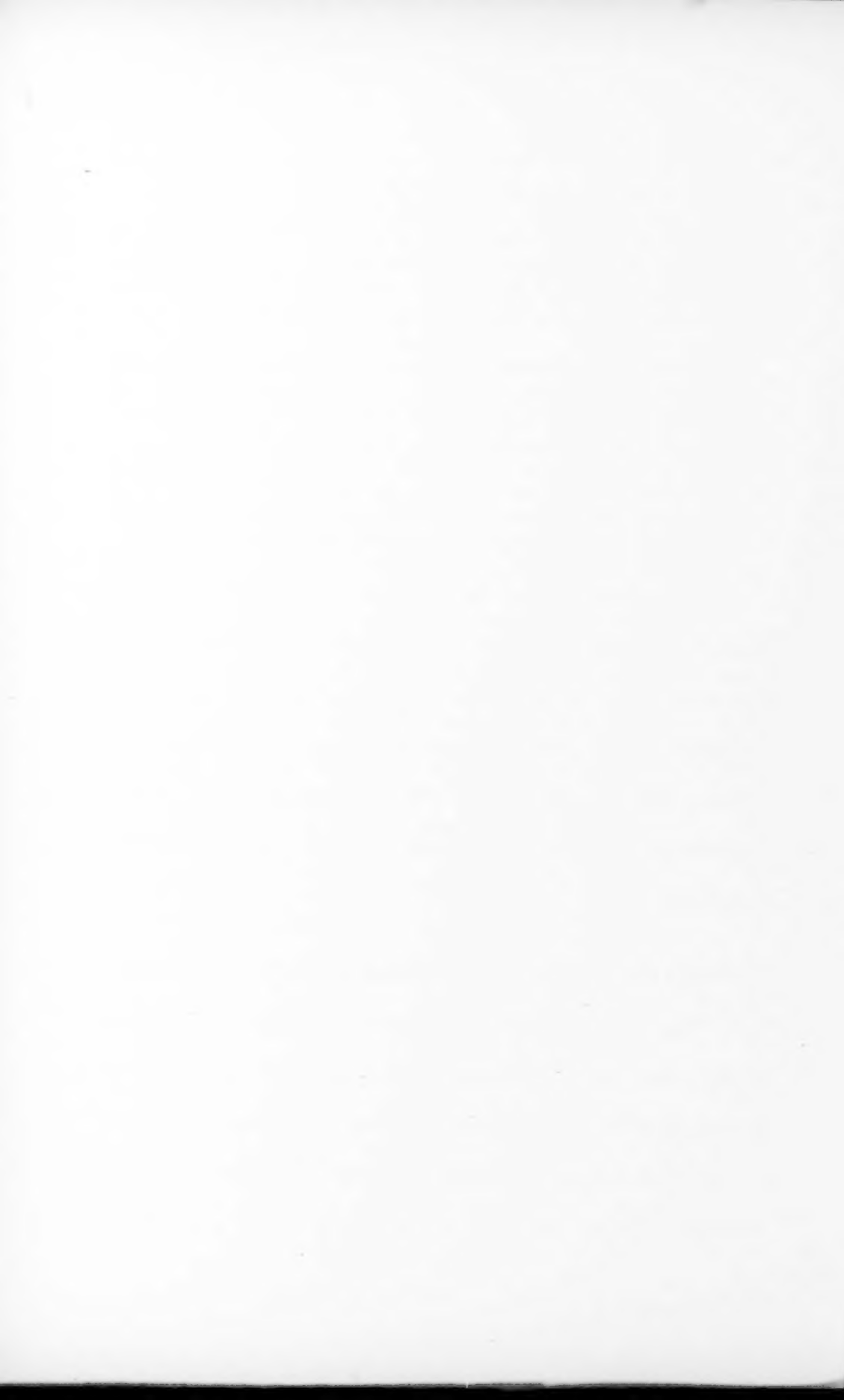
and

"The powers not delegated [to the government] . . . are reserved . . . to [We] the people." Amendment Article X.

7. Further, it is a deprivation of judicial review in violation of Amendment Article V, (i.e., ". . . nor shall private property be taken for public use, without just compensation.") to countenance such behavior when imposed on a non-Federal Citizen.

ALTERNATE CLAIM: QUESTIONABLE JURISDICTION

8. The lack of Article III jurisdiction by the Eleventh Circuit Court of Appeals to adjudicate any common law or Constitutionally reaffirmed RIGHT; i.e., Article III, Secs. 1 and 2: ". . . such



inferior Courts as the Congress may . . . establish . . . and under such Regulations as the Congress shall make." (u.a.) is questionable, based on its decision.

9. By the Court's inability (by lack of legislation) to comply with Constitutional Amendment Article VI which states: "The accused shall enjoy the RIGHT [not a government granted privilege] to a . . . PUBLIC trial," (emphasis added), said Court of Appeals has cast doubt on its ability to provide the redress which the Petitioner is entitled to, and claims.

10. The Judges of said Eleventh Circuit Court of Appeals, in advancing a "DO NOT PUBLISH" memo, dated October 27, 1987, have indicated that jurisdiction to adjudicate common law and Constitutional cases has been withheld from them by Congress under Article III, Sec. 2, Cl. 2, Sent. 2, i.e., ". . . with such Exceptions . . . as the Congress shall make." Thus, instead of being

empowered by Article III jurisdiction, the Eleventh Circuit Court of Appeals may have been restricted by Congress to Article I, Sec. 8, Cl. 9, legislative CAUSES, in equity or maritime, this being under the regulatory clauses of Article I, Sec. 8, Cl. 17, and Article IV, Sec. 3, Cl. 2. Congress would thereby have created legislative courts instead of judicially empowered courts, and would have emasculated the powers of the Judicial Branch of government and violated the sovereignty of the State of Florida.

11. Should the above postulation reflect the actual state of affairs, the Petitioner is mandatorially entitled to be so informed; he must be advised of the name and location of the Court which has the required jurisdiction (and duty) to provide constitutional redress.

SECOND CLAIM: CONSTRUCTIVE FRAUD

12. The delegates (I.R.S.) of the Respondent, the Commissioner of Internal



Revenue, are attempting to place an excise tax within the purview of the 16th Amendment upon the private property/source of a natural Citizen residing in the sovereign State of Florida. A non-Federal Citizen could only be taxed in his person by Article I, Sec. 2, Cl. 3 of our Constitution; ". . . direct Taxes shall be apportioned" The compilation of these basic rules and laws was formulated to control and direct over-zealous government employees, or their delegates, in their respective duties.

13. An alternate theory being advanced by the delegates (I.R.S.) of the Respondent is an attempt to place an excise tax, without uniformity, upon the private property/source of a natural Citizen of the sovereign State of Florida. This attempt is in violation of our supreme Law at Article I, Sec. 8, Cl. 1, ". . . but all . . . Excises shall be uniform" which created a RESTRICTED grant of Power to the Congress.

STATEMENT OF CASE

STATUS

14. The Petitioner, Neil C. Hyslep, herewith asserts that the supreme Court must exercise its judicial Powers in this particular case because Constitutional restriction upon the legislative power is at question and a demand for judicial cognizance is present, and no other court appears at present to possess the judicial Article III Powers necessary to take cognizance of a Constitutional question at common law.

15. The Petitioner, Neil C. Hyslep, declares his status to be that of a natural Citizen of the sovereign body, an inhabitant of the State of Florida, who has not knowingly entered into any government controlled activity, incident, or event that is taxable within the purview of the Sixteenth Amendment or the I.R. Code of 1954.

"The powers not delegated to the United States . . . are reserved . . . to the people." Amendment Article X.

16. The Petitioner, Ann A. Hyslep, declares her status to be that of wife and dependent of the Petitioner, Neil C. Hyslep, in this claim for redress.

HISTORY OF THE CASE

17. On January 11, 1984, the Commissioner of Internal Revenue (C.I.R.), having determined that the "voluntary contribution" donated by the Petitioner was insufficient, did institute, without a legally mandated assessment being made, an illegal "notice" of deficiency for the calendar year of 1980. Said "notice" contained NO defined jurisdictional authority for attaching a liability to the Petitioner. Assumptions are not law.

18. After fruitless efforts by the Petitioner to obtain from the Respondent a clear-cut statute detailing jurisdiction over the Petitioner by way of a lawfully defined liability, the Petitioner sought redress from the Respondent and his

delegate, the I.R.S., by way of the administrative tax tribunal on April 5, 1984. Petitioner's efforts were based on Article I, Sec. 8, Cl. 9, and Amendment Articles V, IX, and X.

19. The tax tribunal's "decision" of December 3, 1986, shed NO light on the assumed jurisdiction over, or liability for, the tax propounded by the Respondent, or his delegates, upon the inherited and Constitutionally reaffirmed vested RIGHTS of the Petitioner as found in Article I, Sec. 2, Cl. 3; Sec. 8, Cl. 1; Sec. 9, Cl. 4, and Article IV, Sec. 2.

20. The Petitioner has now discovered that the U.S. Tax Court is in reality an Article I tribunal created by the Legislative Branch of government, and is devoid of any jurisdiction to consider any case that involves a common law or Constitutional question as found in Article III, Sec. 1, Cls. 1 & 2. (See Appendix 4 and 5.)

21. On February 20, 1987, Petitioner submitted to the Eleventh Circuit Court of Appeals (a court that Petitioner had been educated into believing possessed full Article III jurisdictional authority to consider a claim at common law) an appeal for the redress of a grievance suffered at the behest of the C.I.R. and his delegates in the I.R.S. Said appeal was accompanied by a copy of all of the correspondence and transcripts of communications between the parties, including the NOTICE of a proposed deficiency created by the Appellee's delegates. Included in the appeal was the I.R.S. District Counsel's contrived proposal which, having been rubber stamped in print but not signed with a legal signature or sealed with a legal court seal, is the purported "decision" of the Tax Court tribunal, dated December 3, 1986. Also included was the denied Motion to Vacate, dated January 14, 1987, which was also rubber stamped but



again lacked a legal signature or seal.

22. On October 27, 1987, the Eleventh Circuit Court of Appeals issued a "DO NOT PUBLISH" ("do not allow the sovereign body of citizenry to discover our ineptitude") memo; a memo devoid of any claim of jurisdictional authority; a memo devoid of any law or statute governing the activities of the Petitioner; a memo devoid of any law or statute granting to the Respondent jurisdiction over the God-given and Constitutionally reaffirmed vested RIGHTS of Petitioner to pursue a livelihood in an activity, incident or event, at common law, that is NOT revenue taxable; a memo violating the dictates of "We the People" in our Constitution.

23. An alternate theory for the Eleventh Circuit Court of Appeals' spurious memo of October 27, 1987, being that the Judges of the Court were cognizant of their LACK of Article III jurisdiction to view a common law and Constitutional question, they



therefore legally "passed the buck" of the tax tribunal's findings on to the only KNOWN Constitutionally created Court with Constitutionally created jurisdiction to hear a Constitutional or common law case or claim, viz., The supreme Court of the United States of America. See Article III, Sec. 2, Cl. 1: "The judicial Power [of the supreme Court] shall extend to all Cases, in [common Law . . . arising under this Constitution,"

CONCLUSIONS

24. The Petitioner has determined that:

A) The original Constitution is the supreme Law of the land and was established by "We the People," and that all legislation created by the legislature must conform to the organic Law.

B) An agency of the Federal Government may not ASSUME powers or jurisdiction over the private sector. Any question in such



cases is not what powers the Federal Government would LIKE TO HAVE, but EXACTLY what powers have, in fact, been conferred upon it by "We the People" under the organic law.

C) It is his right and his duty to determine his own personal status within the framework of both the State and the Federal government, and when so doing he must (a) claim and assert all of his inherent RIGHTS, (b) continue to defend his sovereign RIGHTS, belligerently if necessary, from any encroachment thereon from either foreign or domestic sources, (c) pursue any livelihood that does not infringe upon the Constitutional rights of his fellow man, and (d) be unencumbered by governmental intrusion.

CLAIMS

25. That the supreme Court for the United States of America must take cognizance of this case at common Law under its appellate jurisdiction, Article III, Sec. 2, Cl. 2.

26. That the supreme Court must exercise the judicial Powers granted to it by "We the People" at Article III. It is, therefore, not subject to the vicissitudes of the legislators.

27. That the supreme Court assume its full common law appellate jurisdiction to adjudicate the Constitutional questions as set forth by the Petitioner.

28. That the supreme Court reaffirm the Constitutional mandate that forbids the Federal government's direct taxation without apportionment of a natural Citizen residing in any of the sovereign States.

29. That the supreme Court reaffirm its findings that the 16th Amendment placed a



special excise tax only on Federal Citizens within the purview of the 14th Amendment.

30. That the gross remuneration or wages received is nothing but the yardstick used to determine the amount of the excise tax on an ACTIVITY of a Federal Citizen.

31. That the supreme Court reaffirm that Congress is Constitutionally prohibited from infringing upon or taxing any activity, incident, or event outside the scope of authority granted to them by the organic Law.

32. That the supreme Court reaffirm that any ASSUMED powers of the Respondent's delegates, the I.R.S., to tax a God-given and Constitutionally reaffirmed vested RIGHTS is totally null and void.

33. That the supreme Court direct the Respondent to restrain from interfering with Petitioner's lawful activities to life, liberty, and the pursuit of happiness.

34. That the supreme Court direct the Respondent's delegates, the I.R.S., to

reimburse the Petitioner for all costs encountered by the Petitioner during his belligerant claim for the retention and protection of all his God-given and Constitutionally reaffirmed vested RIGHTS and RIGHTS to property from bureaucratic encroachment within the purview of the 13th, 14th, 15th, 16th, 17th, and 19th Amendments.

CLAIM FOR DAMAGES

35. In this case, the Petitioner makes NO monatary claim against the government of the United States as govenment cannot grant any material item to one party without first expropriating said item from some other party.

36. As the Internal Revenue Tax and Audit Service, Inc., is a private corporation, created by Legislative Power (Article I, Sec. 8, Cl. 17), and contracted in 1953 to perform a specific function for the United States Department of the Treasury under the assumed title of "Internal Revenue Service," the Appellant expects to be reimbursed for the property extorted in 1980 by the I.R.S. through its dissemination of disinformation and constructive fraud.

37. The Petitioner, Neil C. Hyslep, asserts that his status is that of a child of God traveling through this level of time, under the all-seeing eye of his Creator, and

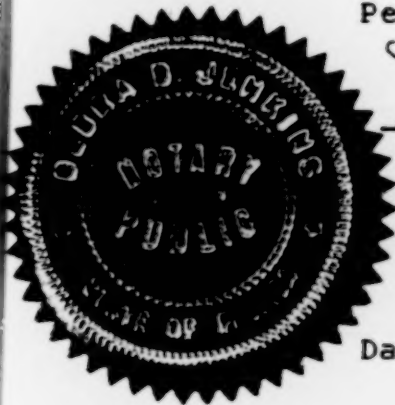


acting on the square with his fellow man as a freeborn white Citizen residing in Florida, a sovereign State of this Union.

38. The Petitioner expects this supreme Court to proclaim his "status" to all the National/Federal, and State governments within this Union and their delegates and satellite agencies.

39. The Petitioner claims any other relief as this supreme Court has the valid authority to provide.

Petitioners:



Neil C. Hyslep Ann A. Hyslep
Neil C. Hyslep & Ann A. Hyslep
Fourth Judicial Dist. of Fla.
14907 North Main Street
Jacksonville, Florida, U.S.A.
Tel: (904) 757 7613

Dated: March 25, 1988
March 28, 1988 (Filed)
April 16, 1988 (Revised)

The Citizens identified and named above appeared before me on this 18th day of April, 1988, and affixed their signatures.

Debra B. Jenkins

Notary
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Sept. 13, 1991



IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 87-3132

Non-Argument Calendar

**DO NOT
PUBLISH**

NEIL C. HYSLEP and
ANN A. HYSLEP,

versus

Petitioner,

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Appeal from a Decision of the
United States Tax Court

(October 27, 1987)

(Rec. 10-29-87)

Before HILL, VANCE and CLARK, Circuit Judges.

PER CURIAM:



The tax court's finding that appellant's employment was indefinite rather than temporary is not clearly erroneous, and the decision denying deductions under section 162(a) of the Internal Revenue Code is AFFIRMED. See Groover v. Commissioner, 714 F.2d 103 (11th Cir. 1983).

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 87-3132

ELEVENTH CIRCUIT
FILED

DEC 29 1987

NEIL C. HYSLEP and
ANN A. HYSLEP,

MIGUEL J. CORTEZ
CLERK
Petitioners,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Appeal from the United States Tax Court
(Middle District of Florida)

ON PETITION(S) FOR REHEARING
(December 29, 1987)

BEFORE: HILL, VANCE and CLARK, Circuit Judges.

PER CURIAM:

The petition ~~(s)~~ for rehearing filed by
the petitioners is *denied*

UNITED STATES TAX COURT

NEIL C. HYSLEP and)
ANN A. HYSLEP,)
)
 Petitioners,)
)
 v.) Docket No. 9064-84
)
COMMISSIONER OF)
INTERNAL REVENUE,)
)
 Respondent.)

DECISION

Pursuant to the opinion of the Court filed August 25, 1986, and incorporating the facts recited in respondent's computation as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax due from petitioners for the taxable year 1980 in the amount of \$2,497.00;

That there is no addition to the tax due from petitioners for the taxable year 1980, under the provisions of I.R.C. section 6653(a); and

That petitioners are not liable for damages under the provisions of I.R.C. section 6673.

(Signed) D. IRVIN COUVILLION
Judge.

Entered: DEC 3 1986



UNITED STATES TAX COURT

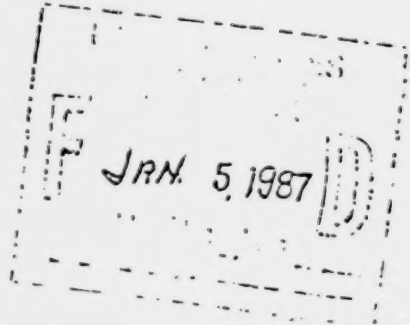
NEIL C. HYSLEP and)
ANN A. HYSLEP,)

Petitioners,)

v.)

COMMISSIONER OF)
INTERNAL REVENUE,)

Respondent.)

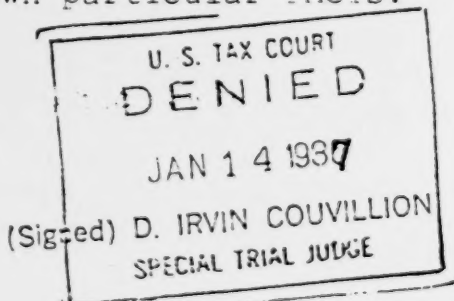


Docket No. 9064-84

MOTION TO VACATE OR REVISE DECISION

As per Rule 162 of the United States Tax Court, Rules of Practice and Procedures, the Petitioners herein motion this Court to vacate or revise its decision pursuant to the following facts and law.

A preliminary matter should be noted: It is axiomatic that each case stands on its own particular FACTS.



CERTIFICATE OF SERVICE

HYSLEP v. C.I.R.

I do hereby certify and affirm that the corrected original and corrected conformed copies, according to Supreme Court rules, are posted pre-paid, Certified Mail, Return Receipt Requested, to the offices and on the date inscribed below.

1. Clerks Office (Original and 40 copies)
Supreme Court, U.S.A.
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2. Solicitor Gererals Office (3 copies)
Department of Justice, Rm. 5614
Washington, D.C. 20530
C.M. No. P426 625 744, R.R.R.
3. M. L. Paup, et.al. (3 copies)
Department of Justice, Tax Division
P.O. Box 502
Washington, D.C. 20044
C.M. No. P426 625 745, R.R.R.

The foregoing is submitted as truth on
April 18, 1988, by Neil C. Hyslep
Neil C. Hyslep
Fourth Judicial Dist. of Fla.
14907 N. Main Street
Jacksonville, Florida, U.S.A.
(904) 757-7613

The Citizen identified and named above appeared before me on this 18th day of April, 1988, and affixed his signature.

Debra B. Jenkins

Notary

My commission expires Sept. 18, 1991